

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

WESTPORT SEAFOODS, INC., *in personam*,

Plaintiff,

v.

MARCO ANTONIO VAZQUEZ, an individual,

Defendant.

AT LAW AND IN ADMIRALTY

Case No.

DECLARATORY JUDGMENT
COMPLAINT

Plaintiff, Westport Seafoods, Inc., by way of complaint in this matter states as follows:

I. PARTIES

1.1 Plaintiff Westport Seafoods, Inc. (“Westport”) has its principle place of business in Westport, Washington, and does business in the state of Washington.

Plaintiff Westport is owner and operator of the fishing vessel TANI RAE.

1.2 Defendant Marco Antonio Vazquez (“Vazquez”) is believed to be a resident of Aberdeen, Washington, who claims to have incurred an injury while working aboard the F/V TANI RAE on or around June 26, 2017.

1. **II. JURISDICTION**

2. 2.1 This is a complaint for declaratory judgment pursuant to 28 U.S.C. §2201
3. and Fed.R.Civ.P.57. This is an admiralty and maritime claim within the meaning of
4. Fed.R.Civ.P.9(h). Jurisdiction is conferred upon this Court pursuant to 28 U.S.C. §1333.

5. 2.2 Defendant Vazquez resides in Aberdeen, Grays Harbor County,
6. Washington, which is subject to jurisdiction and venue in this Court.

7. **III. FACTS**

8. 3.1 Defendant Vazquez signed Crew Employment Contract on May 15, 2017,
9. to work on the F/V TANI RAE.

10. 3.2 On June 26, 2017, Defendant Vazquez reported injuring his right elbow
11. while working on deck of the F/V TANI RAE.

12. 3.3 Defendant Vazquez received medical treatment at the Summit Pacific
13. Medical Center at Elma, Washington on July 11, 2017.

14. 3.4 Defendant Vazquez returned to his work on the vessel and continued
15. working until he completed his contract on November 20, 2017.

16. 3.5 Defendant Vazquez signed another Crew Employment Contract to work
17. on the F/V TANI RAE on May 8, 2018.

18. 3.6 As part of pre-employment screening, Defendant Vazquez filled out
19. Health Questionnaire on May 8, 2018, denying any physical problems.

20. 3.7 After completing his Crew Employment Contract on October 31, 2018,
21. Defendant Vazquez was seen at Summit Pacific Medical Center on November 19, 2018,
22. complaining of right elbow problems.

23. 3.8 Defendant Westport began payment of maritime benefits of maintenance
24. and cure.

1. 3.9 Defendant Vazquez had surgery to excise right olecranon osteophyte on
2. February 4, 2019. On December 30, 2019, defendant Vazquez had surgery for right
3. lateral epicondylitis and right lateral collateral ligament tear. No further surgery was
4. recommended. Defendant Vazquez participated in physical therapy, occupational
5. therapy, massage therapy, and work conditioning therapy. With every discharge, his pain
6. complaints would worsen and would return to additional treatment.

7. 3.10 Plaintiff Westport has been paying maintenance and cure consistently
8. since November 2018, for five and a half years.

9. 3.11 Plaintiff Westport sought expert medical opinion by an orthopedist who
10. reviewed the records and concluded that Defendant Vazquez has reached maximum
11. medical improvement for the injury he sustained on the F/V TANI RAE in 2017, any
12. worsening in 2018, and that ongoing medical care is unrelated and palliative.

13. **IV. FIRST RELIEF REQUESTED**

14. 4.1 Plaintiff reasserts here as if fully set forth all preceding paragraphs.

15. 4.2 Plaintiff Westport therefore seeks a declaratory judgment order to the
16. effect that it has no obligation to pay Defendant Vazquez' further benefits of maintenance
17. and cure, because Defendant Vazquez is at maximum medical improvement and because
18. his ongoing treatment is palliative in nature.

19. **V. PRAYER FOR RELIEF**

20. Wherefore Plaintiff Westport prays for the following relief against Defendant,
21. Devin Carello:

22. 1. For a declaration that Plaintiff Westport has no legal obligation to
23. pay defendant's maintenance and cure benefits, and
24. 2. For any other relief that Court deems appropriate.
- 25.
- 26.

1. DATED this 26th day of July, 2024.

2. HOLMES WEDDLE & BARCOTT, P.C.

3.
4. /s/ Svetlana P. Spivak
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